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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,865	01/09/2004	John Stewart	081557-0307579	6128

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EXAMINER

TRETTEL, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/753,865

Applicant(s)

STEWART ET AL.

Examiner

Michael Trettel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/20/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 and 48 is/are allowed.
- 6) ☒ Claim(s) 12,13,16,17,19,22-33,37,38 and 40-47 is/are rejected.
- 7) ☒ Claim(s) 14,15,18,20,21,34-36 and 39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/09/04, 01/09/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claim 44 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 44 recites the limitation "the longitudinal side walls of the side by side inflatable sections" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 44 recites the limitation "the longitudinal side walls of the pillow portion" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12, 13, 16, 17, 19, 25 to 28, 31, 32, 33, 37, 41 to 43, and 45 to 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Tai (US 5,560,056). Tai shows a multiple use body support that broadly comprises an outer shell portion 1 that encloses an inflatable mattress 2. Shell 1 includes a mattress bag portion 10 which has a slide fastener Z for allowing access to the interior of the bag portion 10, and a sleeping bag portion 1a attached to the edges of the bag portion 10 to form an envelope for receiving a person upon the upper surface of the bag portion.

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Note that the sleeping bag cover portion 1a is shorter in overall length than the upper layer of the bag portion 10, as is shown in Figure 2. The air mattress 2 is formed in multiple hinged sections 21, 22, 23, and pillow portion 24, with the hinges allowing the mattress sections to be folded relative to one another. A fill vent 20 is coupled to the mattress 2. Hinges lines F1 and F2 correspond to the mattress hinges between sections 21, 22 and 22, 23. Note the various positions that can be assumed by the mattress sections shown in Figures 3 to 5. The structure shown by Tai shows all of the structural details claimed, the statements of intended use present in the "wherein" clauses of the claims can inherently be performed by the Tai device and do not define over the reference. Note that the pillow portion 24 extends above the height of the remaining mattress sections 21, 22, and 23, and that the bag portion 10 includes a raised portion to receive the pillow portion. Also note that the interior of the bag portion 10 and the sleeping bag portion 1a can inherently serve as a means for storing the device in a rolled up condition.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22 to 24, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tai (US 5,560,056) in view of Hsu (US 6,543,072). Hsu teaches that a sleeping bag apparatus can include a pillow portion 1 with a decorative image formed upon the upper surface. Note the details shown in Figure 1, in which the decorative element is coupled with three

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dimensional elements attached to the cover portion in order to enhance the effect of the decoration. It would have been obvious to one of ordinary skill in the art to have provided the sleeping bag apparatus with decorative elements as taught by Hsu, for the purpose of decorating the sleeping bag. Note that the use of any type of decorative image upon the bag cover or pillow cover can be considered to be a three dimensional shape, since the underlying bag or cover is three dimensional in shape.

Claims 38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tai (US 5,560,056) in view of McDade (US 5,740,565). McDade teaches that a sleeping bag assembly 10 can include an insulated cover sheet 30 with an attached netting 40 at the head end. A pair of spring support loops 42 are attached to the side edges of the head end of the bag in order to support the netting 40 over the head of a user, thereby protecting the user from insects while using the bag. It would have been obvious to the skilled artisan to have provided the Tai sleeping bag assembly with an attached netting with spring support loops as taught by McDade, for the purpose of protecting user of the bag from insects while using the bag.

Allowable Subject Matter

Claims 14, 15, 18, 20, 21, 34 to 36, and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Claim 44 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 1 to 11 and 48 are allowed.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stewart (US 6,799,339) shows the applicant's previous US patent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Michael Trettel
Primary Examiner
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